

REMARKS

Claims 1-44 are pending in the application. Of those, Claims 1-3, 5-12, 14-20, 27-29, 31-35, 37-39, and 41-44 have been rejected under § 102(b) of the Patent Statute, Claims 1-3, 5-12, 14-20, 22-29, 31-35, 37-39, and 41-44 have been rejected under § 102(e) and Claims 4, 13, 21, 30, 36, and 40 have been rejected under § 103(a). By way of this amendment, all of the independent claims (Claims 1, 10, 18, 27, and 37) have been amended.

CLAIM REJECTIONS – 35 U.S.C. § 102

The claim rejections under § 102(b) and (e) are based on the Parisi patent (1,349,095) and the Krajcir patent (6,389,715). Neither of these patents discloses the invention as set forth in the amended claims. In particular, neither these references discloses a panel that is positioned inside the toebox to engage a “forward edge” of at least one of wearer’s toes, with the panel being spaced from the toebox at a panel mid portion absent the wearer’s toes forcing said portion into contact with the toebox. Specifically, the Parisi reference discloses loops that surround the individual toes of the wearer well aft of a forward edge of the toes. The Krajcir patent discloses a safety toebox that is separated from the user’s toes to protect the toes from injury. The panel of the present invention aids the wearer in having a better feel for the position of the wearer’s foot within the footwear.

CLAIM REJECTIONS – 35 U.S.C. § 103

The Parisi and Houser et al. (6,718,656) references were combined to reject the claims 4, 13, 21, 30, and 40. The reliance on Parisi was similar to that discussed above with the Houser et al. addition disclosing the use neoprene. These claims are patentable over the combination for the same reasons discussed above with regard to § 102 rejections. Houser does not add relevant disclosure with regard to the specific panel details as in the claims as amended.

Claim 36 was rejected under § 103(a) under the combination of Parisi and Salomon (US Patent No. 4,253,251). Salomon was cited for teaching a strap in the toe area to hold the foot within the boot. Again, the strap is well aft of a forward edge of the toes and thus does not make obvious the claims as amended.

INTERVIEW SUMMARY AND CONCLUSION

Applicant thanks the Examiner for the interview conducted on December 1, 2004. The substance of the interview was the claims as presented herein, specifically a clarification of the panel being spaced from the toebox at a panel mid portion and the panel engaging a forward edge of at least one of the wearer's toes.

In consideration of the amendments and remarks set forth above, Applicant respectfully requests reconsideration and allowance of all claims.

Respectfully submitted,

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MAIL CERTIFICATE

I hereby certify that this communication is being deposited with the United States Postal Service via first class mail under 37 C.F.R. § 1.08 on the date indicated below addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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